IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.20004 of 2001

Between:

S.N.Mohamed, S/o. Sultaan Mohamed,
Head Office at D.No.1-131-B, Main Road,
Razole, East Godavari District.

..... PETITIONER

AND

1 The Deputy Superintendent of Police,
Amalapuram, East Godavari District.
2 The Station House Officer,
Rozale Police Station, East Godavari District.
3 The Station House Officer,
Amalapuram Police Station, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may leased to issue a Writ, order or direction, preferably in the nature of writ of Mandamus, declaring the action of the respondent police in interfering and not allowing the petitioner to run the business "M/s. GODHAVARI HOME NEEDS" situated at 1-131/B, Main Road, Razole (Head Office) and D.No.7-2-74, Yerramillivari Street, Amalapuram (Branch Office), East Godhavari District, as illegal, without authority of law and violative of Article 19, 21 and 300-A of the Constitution of India and consequently direct the respondents not to interfere with Petitioner's business.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

The petitioner is running business in selling household articles at Amalapuram in the name and style of M/s.Godhavari Home Needs. He alleges that on 13.9.2001, the third respondent and the constables attached to the Police Station came to the shop of the petitioner and directed him to stop the business. He also alleges that thereafter the constables sent by the second respondent are daily coming to the shop and preventing the petitioner from running the business. Therefore, he filed the present writ petition seeking direction to the respondents not to interfere with the business of the petitioner.

This Court while admitting the writ petition, by order dated 03.10.2001, directed the respondents not to interfere with the petitioner's business, if he is not violated any conditions of licence for running the business. Be that as it is, in the counter affidavit filed by the second respondent, it is stated that the petitioner was indulging in making false promises to the customers to offer household articles at huge discount. There were similar instances in other places where business people collected substantial amounts from the people by making false promises and overnight decamped. It is further alleged that on complaints made by the local people the Mandal Executive Magistrate, Razole also issued a notice to the petitioner. Further, one Tatavarthi Venkata Rathnam and Nareddimilli Kanakaraju gave a complaint alleging that the petitioner failed to deliver goods and thereby cheated them. Therefore, Crime No.159 of 2001 under Section 420 read with 34 of Indian Penal Code, 1860 (IPC) of P.S. Razole was registered and the investigation is taken up. The investigation as on the date of filing of counter affidavit was still pending.

The petitioner has not chosen to file any reply affidavit denying the allegations. Therefore, no credence can be given to the allegations made by the petitioner that the police are continuously interfering with his business. However, as long as the petitioner has valid licence to run the business, M/s. Godhavari Home Needs, and unless and until a complaint is made against him, the police cannot prevent him from running the business. It is, however, open to the second respondent to investigate Crime No.159 of 2001 and file appropriate charge sheet in the criminal Court.

The writ petition, with the above observations, is disposed of.

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(V.V.S.RAO,J)

28.06.2005

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To

1 The Deputy Superintendent of Police,
Amalapuram, East Godavari District.
2 The Station House Officer,
Rozale Police Station, East Godavari District.
3 The Station House Officer,
Amalapuram Police Station, East Godavari District.

4 Two CCs to the Government Pleader for Home,

High Court Buildings, Hyderabd. (OUT)

5 Two C.D. Copies.